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NOTIFICATION DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>01 July 2009</u>.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>23-58,60-80 and 82-123</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) <u>23-58, 60-80, 82-123</u> is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All b) ☐ Some * c) ☐ None of:
        1. ☐ Certified copies of the priority documents have been received.
        2. ☐ Certified copies of the priority documents have been received in Application No. _____.
        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 23-58, 60-80, and 82-123 are pending in this application. Claims 1-

22, 59, and 81 have been cancelled and claims 23-58, 60-70, 72-80, 82-101have

been amended and claims 102-123 have been added by amendment filed on

07/01/2009.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in
> public use or on sale in this country, more than one year prior to the date of application for patent in
> the United States.

3.   **Claims 23, 34-35, 45, 51-52, 58, 69-70, 80, 91-92, 102, and 113-114 are**

rejected under 35 U.S.C. 102(b) as being anticipated by Airy et al. (US Pub #

2002/0142780 A1, hereinafter Airy).

4.   With respect to claims 23, 58, 80, and 102, Airy discloses an apparatus

system, method, computer program product comprising a processor and a

memory storing executable instructions that in response to execution by the

processor cause the apparatus to at least perform the following: providing for

sending an upload request to a recipient ([0010], lines 1-5, a subscriber unit is

transmitting a request to send data blocks to the base transceiver station), the

upload request comprising a request to upload content from the apparatus to the recipient ([0010], lines 1-5, a subscriber unit is transmitting a request to send data blocks to the base transceiver station); providing for receiving, from the recipient in response to the upload request, an upload schedule relating to at least one of the time or manner of uploading the content ([0010], lines 11-15, the base transceiver station generates a schedule that includes time slots and frequency blocks in which the requested data blocks are to be transmitted from the subscriber unit to the bas transceiver station); and providing for uploading the content to the recipient in accordance with the upload schedule ([0010], lines 15-17, the subscriber unit transmits the data blocks the subscriber earlier requested to sent, according to the schedule.

5.   With respect to claim 45, Airy discloses an apparatus system comprising a processor and a memory storing executable instructions that in response to execution by the processor cause the apparatus to at least perform the following: providing for receiving a request to upload content from a sender to the apparatus ([0010], lines 1-5, a subscriber unit is transmitting a request to send data blocks to the base transceiver station), determining, in response to the request, an upload schedule relating to at least one of the time or manner of the sender uploading the content to the apparatus; ([0010], lines 10-15, the base transceiver station generates a schedule that includes time slots and frequency blocks in which the requested data blocks are to be transmitted from the subscriber unit to the bas transceiver station); and providing for receiving the

content uploaded from the sender in accordance with the upload schedule

([0010], lines 15-17, the subscriber unit transmits the data blocks the subscriber

earlier requested to sent, according to the schedule.

6.   With respect to claims 34, 51, 69, 91 and 113, Airy discloses wherein the

upload schedule includes at least one instruction based upon the content and at

least one network over which the content is uploaded, and wherein providing for

uploading the content comprises providing for uploading the content based upon

the content and the at least one network ([0010], lines 8-11, 19-22, the base user

queue size estimate influences future schedules generated by the base

transceiver station which means that the schedule is depended upon the size of

the file (content)).

7.   With respect to claims 35, 52, 70, 92 and 114, Airy discloses wherein the

upload schedule includes at least one instruction based upon at least one upload

time of the content determined based upon the content and at least one network

over which the content is uploaded, and wherein providing for uploading the

content comprises providing for uploading the content based upon the at least

one upload time ([0010], lines 8-11, 19-22, the base user queue size estimate

influences future schedules generated by the base transceiver station which

means that the schedule is depended upon the size of the file (content)).

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

9.   **Claims 24, 29-30, 46, 64-65, 80, 86-87, 103, and 108-109 are rejected**

under 35 U.S.C. 103(a) as being unpatentable over Airy in view of Brown et

al. (US PUB 2002/0194205 A1, hereinafter Brown).

10.   With respect to claims 24 and 103, Airy does not disclose deleting the

content from the memory after uploading the content to the recipient.

        In the same field of endeavor, Brown discloses deleting the content from

the memory after uploading the content to the recipient ([0094], lines 2-5,

sending instructions to the server to move, rename, or delete a single file or

directory). Airy and Brown are analogous art because they disclose transferring

data between servers, machines, clients, servers, etc.

        Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to incorporate the teachings of Airy with deleting

the content from the memory after uploading the content to the recipient as

taught in Brown in order to have full authority/control over content that was meant

to be accessed for a short period amount of time, for saving storage purposes, or

other general purposes. One of ordinary skill in the art would have been

motivated to incorporate the teachings with one another to establish a more

versatile system by allowing client/admin etc. to be able to make changes to

information on the server/database etc.

11.   With respect to claims 29, 48, 64, 86 and 108, Airy does not clearly

disclose processing the content, wherein providing for uploading the content

comprises providing for uploading the processed content.

        In the same field of endeavor, Brown discloses processing the content

wherein providing for uploading the content comprises providing for uploading

the processed content ([0099], lines 1-5, [0100], lines 4-7, being able to

implement partial downloads and uploads to minimize the amount of data that is

transferred over the wire when a file is updated).   Airy and Brown are analogous

art because they both deal with transferring data between servers, machines,

clients, servers, etc.

        Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to incorporate the teachings of Airy with

processing the content wherein providing for uploading the content comprises

providing for uploading the processed content as disclosed in Brown in order to

be able to transfer part of a document that has changed. One of ordinary skill in

the art would have been motivated to incorporate the teachings with one another

to establish a more versatile system by being able to implement partial

downloads/uploads and not the whole entire document to minimize the amount of

data that is transferred.

12.   With respect to claims 30, 65, 87 and 109, the claims are rejected as the

same reasons as claims 29, 48, 64, 86 and 108 above. In addition, Brown

discloses wherein processing the content comprises at least one of transcoding

or truncating at least a portion of the content ([0099], lines 1-5, [0100], lines 4-7,

being able to implement partial downloads and uploads to minimize the amount

of data that is transferred over the wire when a file is updated).

13.   **Claims 25-28, 46-47, 60-63, 82-85, and 104-108 are rejected under 35**

U.S.C. 103(a) as being unpatentable over Airy in view of McDonnell et al.

(US Patent # 7,257,386, hereinafter McDonnell).

14.   With respect to claims 25, 46, 60, 82 and 104, Airy does not clearly

disclose providing for receiving information reflecting a current state of at least

one of the recipient or the apparatus before uploading the content, wherein

providing for uploading the content comprises providing for uploading the content

based upon the at least one instruction dependent upon the state, and the

information reflecting the current state, of at least one of the recipient or the

apparatus.

        In the same field of endeavor, McDonnell discloses providing for receiving

information reflecting a current state of at least one of the recipient or the

apparatus before uploading the content, wherein providing for uploading the

content comprises providing for uploading the content based upon the at least

one instruction dependent upon the state, and the information reflecting the

current state, of at least one of the recipient or the apparatus (column 7, lines 45-

50, col. 6, lines 41-54, the message/data/file is going to transmit with a low or

high bandwidth connection based on the response from the recipient regarding if

they wish to receive the message from a low bandwidth or high bandwidth

connection. The data can be split into a minor portion send via the slower

connection, PLMN, while the major portion is transmitted when the mobile device

is within range of the WBSR base station). Airy and McDonnell are analogous

art because they disclose transferring data between systems/clients/servers etc.

Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to incorporate the teachings of Airy with

providing for receiving information reflecting a current state of at least one of the

recipient or the apparatus before uploading the content, wherein providing for

uploading the content comprises providing for uploading the content based upon

the at least one instruction dependent upon the state, and the information

reflecting the current state, of at least one of the recipient or the apparatus as

disclosed in McDonnell in order to be able to be able to upload the data to be

split into a first minor portion which is transmitted before the major portion is

transmitted when the mobile device is in range. One of ordinary skill in the art

would have been motivated to incorporate the teachings with one another to

establish a more versatile system by being able to upload/download data when the unit is in range to connect with a connection that allows a better transfer rate.

15.   With respect to claims 26, 61, 83, and 105, the claims are rejected as the same reasons as claims 25, 46, 60, 82 and 104 above. In addition, McDonnell discloses wherein providing for receiving information reflecting a current state comprises providing for receiving information including at least one of a connectivity, location, actual movement or predicted movement of at least one of the recipient or the apparatus (column 7, lines 45-50, column 8, lines 40-42, the message/data/file is going to transmit with a low or high bandwidth connection based on the response from the recipient regarding if they wish to receive the message from a low bandwidth or high bandwidth connection. The data can be split into a minor portion send via the slower connection, PLMN, while the major portion is transmitted when the mobile device is within range of the WBSR base station).

16.   With respect to claims 27, 47, 62, 84 and 106, Airy does not clearly disclose wherein the upload schedule includes at least one instruction dependent upon a state of at least one network over which the content is uploaded, and wherein the memory stores executable instructions that in response to execution by the processor cause the apparatus to further perform: providing for receiving information reflecting a current state of the at least one network before uploading the content, wherein providing for uploading the content comprises providing for

uploading the content based upon the at least one instruction dependent upon

the state, and the information reflecting the current state, of the at least one

network.

In the same field of endeavor, McDonnell discloses wherein the upload

schedule includes at least one instruction dependent upon a state of at least one

network over which the content is uploaded, and wherein the memory stores

executable instructions that in response to execution by the processor cause the

apparatus to further perform: providing for receiving information reflecting a

current state of the at least one network before uploading the content, wherein

providing for uploading the content comprises providing for uploading the content

based upon the at least one instruction dependent upon the state, and the

information reflecting the current state, of the at least one network (column 7,

lines 39-41, lines 45-50, the message/data/file is going to transmit with a low or

high bandwidth connection based on the response from the recipient regarding if

they wish to receive the message from a low bandwidth or high bandwidth

connection. The data can be split into a minor portion send via the slower

connection, PLMN, while the major portion is transmitted when the mobile device

is within range of the WBSR base station). Airy and McDonnell are analogous

art because they disclose transferring data between systems/clients/servers etc.

Therefore, it would have been obvious to one of ordinary skill in the art at

the time the invention was made to incorporate the teachings of Airy with wherein

the upload schedule includes at least one instruction dependent upon a state of

at least one network over which the content is uploaded, and wherein the

memory stores executable instructions that in response to execution by the

processor cause the apparatus to further perform: providing for receiving

information reflecting a current state of the at least one network before uploading

the content, wherein providing for uploading the content comprises providing for

uploading the content based upon the at least one instruction dependent upon

the state, and the information reflecting the current state, of the at least one

network as taught in McDonnell in order to be able to be able to upload the data

to be split into a first minor portion which is transmitted before the major portion is

transmitted when the mobile device is in range. One of ordinary skill in the art

would have been motivated to incorporate the teachings with one another to

establish a more versatile system by being able to upload/download data when

the unit is in range to connect with a connection that allows a better transfer rate.

17.   With respect to claims 28, 63, 85 and 107, the claims are rejected as the

same reasons as claims 27, 47, 62, 84 and 106 above. In addition, McDonnell

discloses wherein providing for receiving information comprises providing for

receiving information including at least one of traffic on the at least one network

or bandwidth available to at least one of the recipient or the apparatus on the at

least one network (column 7, lines 39-41, lines 45-50, column 6, lines 33-40, the

message/data/file is going to transmit with a low or high bandwidth connection

based on the response from the recipient regarding if they wish to receive the

message from a low bandwidth or high bandwidth connection. The data can be

split into a minor portion send via the slower connection, PLMN, while the major

portion is transmitted when the mobile device is within range of the WBSR base

station).

18.   **Claims 33, 37-42, 50, 53-56, 68, 72-77, 90, 84-99, 112, and 116-121 are**

rejected under 35 U.S.C. 103(a) as being unpatentable over Airy and in view

of Kohno (US Pub 2003/0120802 A1, hereinafter Kohno).

19.   With respect to claims 33, 50, 68, 90 and 112, Airy does not disclose

wherein the content includes a plurality of pieces, wherein the upload schedule

includes at least one instruction comprising an ordering of the plurality of pieces

of the content, and wherein uploading the content comprises providing for

uploading at least a portion of the content based upon the ordering of the plurality

of pieces of the content.

However, in the same field of endeavor, Kohno discloses wherein the

content includes a plurality of pieces, wherein the upload schedule includes at

least one instruction comprising an ordering of the plurality of pieces of the

content, and wherein uploading the content comprises providing for uploading at

least a portion of the content based upon the ordering of the plurality of pieces of

the content ([0114], lines 4-8, [0115], lines 1-7, [0111], lines 9-12, The ARW

processing unit of the data transmission terminal identifies packets to be

retransmitted based on the option parameter, timestamp, and sequence

numbers. The ACK-RTCP packet includes fields of heater, format, packet type,

…, and received-sequence numbers). Airy and Kohno are analogous art because they disclose sending/receiving/transferring data.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teachings of Airy with wherein the content includes a plurality of pieces, wherein the upload schedule includes at least one instruction comprising an ordering of the plurality of pieces of the content, and wherein uploading the content comprises providing for uploading at least a portion of the content based upon the ordering of the plurality of pieces of the content as disclosed in Kohno in order for the transferring of data to be in sync with one another. One of ordinary skill in the art would have been motivated to incorporate the teachings with one another so that streaming of video, audio, or files of the same nature can be provided to the designated location without having to complexly re-configure the assortment of data received.

20.   With respect to claims 37, 53, 72, 94 and 116, Airy does not disclose wherein the content comprises a plurality of data packets, wherein providing for sending an upload request comprises providing for sending an upload descriptor and thereafter providing for uploading the content to thereby enable at least one of the apparatus or the recipient to determine if an interruption occurs in uploading the plurality of data packets, the recipient is configured to recover the content based upon the upload descriptor such that the recipient receives the plurality of data packets.

However, in the same field of endeavor, Kohno discloses wherein the content comprises a plurality of data packets, wherein providing for sending an upload request comprises providing for sending an upload descriptor and thereafter providing for uploading the content to thereby enable at least one of the apparatus or the recipient to determine if an interruption occurs in uploading the plurality of data packets, the recipient is configured to recover the content based upon the upload descriptor such that the recipient receives the plurality of data packets ([0069], lines 5-14, [0074], lines 1-3, packet analyzing unit of the receiver terminal detects error such as packet loss, and if an error is detected, determine whether or not to issue a request for packet retransmission), the recipient is configured to recover the content based upon the upload descriptor such that the recipient receives the plurality of data packets ([0074], lines 1-15, [0075], determine that a retransmission request be issued, the receiver terminal create a retransmission request). Airy and Kohno are analogous art because they disclose sending/receiving/transferring data.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teachings of Airy with wherein the content comprises a plurality of data packets, wherein providing for sending an upload request comprises providing for sending an upload descriptor and thereafter providing for uploading the content to thereby enable at least one of the apparatus or the recipient to determine if an interruption occurs in uploading the plurality of data packets, the recipient is configured to recover the content based upon the upload descriptor such that the recipient receives the

plurality of data packets as disclosed in Kohno in order for the designated

recipient to acknowledge that files are missing during transfer due to

known/unknown errors/interruptions. One of ordinary skill in the art would have

been motivated to incorporate the teachings with one another so that proper re-

transfer of the missing files only will be transmitted again to save time,

bandwidth, memory, cost, etc.

21.   With respect to claims 38, 54, 73, 95, and 117, it is rejected for the same

reasons as claims 37, 53, 72, 94 and 116 above. In addition, Kohno discloses

wherein providing for sending an upload descriptor and thereafter providing for

uploading the content enables the recipient to recover the content includes being

configured to determine at least one remaining data packet to be uploaded to the

recipient to thereby complete uploading of the plurality of data packets of the

content, and thereafter instruct the sender to send the at least one remaining

data packet, providing for uploading the content including providing for uploading

the at least one remaining data packet such that the recipient reviews all of the

content ([0074], lines 1-15, packet analyzing unit of the receiver terminal detects

error such as packet loss, and if an error is detected, determine whether or not to

issue a request for packet retransmission).

22.   With respect to claims 39, 55, 74, 96 and 118, Airy does not disclose

wherein the content comprises a plurality of data packets, and wherein providing

for uploading the content comprises providing for uploading the plurality of data

packets and at least one information packet regarding at least one group of at least one data packet.

However, in the same field of endeavor, Kohno discloses wherein the content comprises a plurality of data packets, and wherein providing for uploading the content comprises providing for uploading the plurality of data packets and at least one information packet regarding at least one group of at least one data packet ([0069], lines 1-14, flag indicating the end of the frame is set). Airy and Kohno are analogous art because they disclose sending/receiving/transferring data.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teachings of Airy with wherein the content comprises a plurality of data packets, and wherein providing for uploading the content comprises providing for uploading the plurality of data packets and at least one information packet regarding at least one group of at least one data packet as disclosed in Kohno in order for the designated recipient to acknowledge that files are missing during transfer due to known/unknown errors/interruptions. One of ordinary skill in the art would have been motivated to incorporate the teachings with one another so that proper re-transfer of the missing files only will be transmitted again to save time, bandwidth, memory, cost, etc.

23.   With respect to claims 40, 56, 75, 97 and 119, the claims are rejected as the same reasons as claims 39, 55, 74, 96 and 118 above. In addition, Kohno

discloses wherein providing for uploading the plurality of data packets and the at

least one packet enables the recipient to monitor the uploaded data packets to

determine, based upon at least one information packet, in an interruption occurs

in uploading the plurality of data packets such that the recipient receives less

than the plurality of data packets of the content, and if an interruption occurs in

uploading the plurality of data packets, to thereby enable the recipient to recover

the content such that the recipient receives the plurality of data packets ([0074],

lines 1-15, packet analyzing unit of the receiver terminal detects error such as

packet loss, and if an error is detected, determine whether or not to issue a

request for packet retransmission).

24.   With respect to claims 41, 57, 76, 98 and 120, Airy does not clearly

disclose wherein providing for uploading the content enables at least one of the

apparatus or the to determine if an interruption occurs in uploading the content

such that the recipient only receives a portion of the content, and if an

interruption occurs in uploading the content, executable instructions stored by the

memory cause the apparatus to further perform: providing for receiving a length

of the received portion of the content to thereby enable the sender to thereafter

providing for uploading a remaining portion of the content to thereby recover the

content such that the recipient receives all of the content.

However, in the same field of endeavor, Kohno discloses wherein

providing for uploading the content enables at least one of the apparatus or the

to determine if an interruption occurs in uploading the content such that the

recipient only receives a portion of the content, and if an interruption occurs in uploading the content, executable instructions stored by the memory cause the apparatus to further perform: providing for receiving a length of the received portion of the content to thereby enable the sender to thereafter providing for uploading a remaining portion of the content to thereby recover the content such that the recipient receives all of the content ([0074], lines 1-15, packet analyzing unit of the receiver terminal detects error such as packet loss, and if an error is detected, determine whether or not to issue a request for packet retransmission). Airy and Kohno are analogous art because they disclose sending/receiving/transferring data.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate the teachings of Airy with wherein providing for uploading the content enables at least one of the apparatus or the to determine if an interruption occurs in uploading the content such that the recipient only receives a portion of the content, and if an interruption occurs in uploading the content, executable instructions stored by the memory cause the apparatus to further perform: providing for receiving a length of the received portion of the content to thereby enable the sender to thereafter providing for uploading a remaining portion of the content to thereby recover the content such that the recipient receives all of the content as disclosed in Kohno in order for the designated recipient to acknowledge that files are missing during transfer due to known/unknown errors/interruptions. One of ordinary skill in the art would have been motivated to incorporate the teachings with one another so that proper re-

transfer of the missing files only will be transmitted again to save time,

bandwidth, memory, cost, etc.

25.   With respect to claims 42, 77, 99 and 121, the claims are rejected as the

same reasons as claims 41, 57, 76, 98 and 120 above. In addition, Kohno

discloses wherein providing for uploading a remaining portion of the content

comprise providing for uploading a remaining portion of the content based upon a

bit range of the remaining portion of the content ([0074], lines 1-15, [0069], lines

5-8, packet analyzing unit of the receiver terminal detects error such as packet

loss, and if an error is detected, determine whether or not to issue a request for

packet retransmission).

26.   **Claims 32, 49, 67, 89 and 112 are rejected under 35 U.S.C. 103(a) as**

being unpatentable over Airy and in view of Squibbs et al. (US PUB

2004/0198426 A1, hereinafter Squibbs).

27.   With respect to claims 32, 49, 67, 89 and 112, Airy does not disclose

wherein the upload schedule includes at least one instruction defining at least

one deadline for uploading the content, and wherein providing for uploading the

content comprises providing for uploading the content based upon the at least

one deadline.

        However, in the same field of endeavor, Squibbs discloses wherein the

upload schedule includes at least one instruction defining at least one deadline

for uploading the content, and wherein providing for uploading the content

comprises providing for uploading the content based upon the at least one

deadline ([0061], lines 10-17, [0063], lines 21-24, having regard to the remaining

time in the hotspot for the device, there is sufficient time to complete the data

transfer). Airy and Squibbs are analogous art because they disclose transferring

data/files to a unit/server/client/system etc.

Therefore, it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to incorporate the teachings of Airy with

wherein the upload schedule includes at least one instruction defining at least

one deadline for uploading the content, and wherein providing for uploading the

content comprises providing for uploading the content based upon the at least

one deadline as disclosed in Squibbs in order to ensure if a file cannot be

transferred, it will not prevent other files from transferring because of constant re-

transferring of the same file. One of ordinary skill in the art would have been

motivated to incorporate the teachings with one another to establish a more

efficient system by accommodating non-stationary users transferring files/content

while moving from one location to another that incorporate the ability to let users

transfer files as needed so that the transfer of file/files will be transferred before

the user moves out of the incorporated transfer area.

28.   **Claims 36, 71, 93 and 115 are rejected under 35 U.S.C. 103(a) as**

being unpatentable over Airy and in view of Kobayashi et al. (WIPO #

WO/2003/026216, hereinafter Kobayashi).

29.   With respect to claims 36, 71, 93 and 115, Airy does not disclose wherein

the memory stores executable instructions that in response to execution by the

process cause the apparatus to further perform: providing for receiving a trigger

to send an upload request wherein providing for sending an upload request

comprises providing for sending an upload request in response to the trigger

independent of interaction from a user of the apparatus.

However, in the same field of endeavor, Kobayashi discloses wherein the

memory stores executable instructions that in response to execution by the

process cause the apparatus to further perform: providing for receiving a trigger

to send an upload request wherein providing for sending an upload request

comprises providing for sending an upload request in response to the trigger

independent of interaction from a user of the apparatus ([0178], lines 1-6, the

transfer start request of the file for using it for a presentation from a Client PCi to

the communicator 3A of one's conference room). Airy and Kobayashi are

analogous art because they disclose transferring files/data.

Therefore, it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to incorporate the teachings of Airy with

wherein the memory stores executable instructions that in response to execution

by the process cause the apparatus to further perform: providing for receiving a

trigger to send an upload request wherein providing for sending an upload

request comprises providing for sending an upload request in response to the

trigger independent of interaction from a user of the apparatus as disclosed in

Kobayashi in order to incorporate multiple files being transferred at a particular

time. One of ordinary skill in the art would have been motivated to incorporate

the teachings with one another to establish a more efficient system so that the

client/user that is sending the file knows when the best allotted time to transfer

the file is.

30.   **Claims 31, 66, 88 and 110 are rejected under 35 U.S.C. 103(a) as**

being unpatentable over Airy in view of Brown as applied to claims 23, 29,

58, 64, 80, 86, 102, and 108 and in further view of Kohno.

31.   With respect to claims 31, 66, 88 and 110, the claims are rejected as the

same reasons as claims 23, 29, 58, 64, 80, 86, 102, and 108 above. Airy and

Brown does not disclose the sender is configured to break up the upload content

into a plurality of portions to thereby enable the sender to upload the portions of

the upload content.

    However, in the same field of endeavor, Kohno discloses the sender is

configured to break up the upload content into a plurality of portions to thereby

enable the sender to upload the portions of the upload content ([0068], lines 1-

12, packet analyzing unit of the receiver terminal detects error such as packet

loss, and if an error is detected, determine whether or not to issue a request for

packet retransmission). Airy, Brown, and Kohno are analogous art because they

disclose sending/receiving/transferring data.

Therefore, it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to incorporate the teachings of Airy and

Brown with the sender is configured to break up the upload content into a

plurality of portions to thereby enable the sender to upload the portions of the

upload content as disclosed in Kohno in order to be able to use parts of the data

even though there are loss of packets ([0074]). One of ordinary skill in the art

would have been motivated to incorporate the teachings of one another to

establish a more efficient system so any machine/system/etc. will only have to

retransmit the packets that are loss and not the entire file/data that is being

transferred.

32.   **Claims 43, 44, 78, 79, 100, 101, 122, and 123 are rejected under 35**

U.S.C. 103(a) as being unpatentable over Airy in view of Kohno and in

further view of Anderson (US Pub 2003/0084128 A1, hereinafter Anderson).

33.   With respect to claims 43, 78, 100 and 122, the claims are rejected for the

same reasons as claims 23, 41, 58, 76, 80, 98, 102, and 120 above. The

combination of Airy and Kohno does not disclose wherein providing for receiving

a length of the received portion of the content comprises providing for receiving a

length of the received portion of the content in accordance with a hypertext

transfer protocol (HTTP) HEAD technique.

However, in the same field of endeavor, Anderson discloses wherein

providing for receiving a length of the received portion of the content comprises

providing for receiving a length of the received portion of the content in

accordance with a hypertext transfer protocol (HTTP) HEAD technique ([0036],

lines 9-13, HEAD method is identical to GET method except that the server must

not return a message-body in the response). Airy, Kohno, and Anderson are

analogous art because they disclose transferring/sending data/files.

Therefore, it would have been obvious to a person of ordinary skill in the

art at the time the invention was made to incorporate the teachings of Airy and

Kohno with wherein providing for receiving a length of the received portion of the

content comprises providing for receiving a length of the received portion of the

content in accordance with a hypertext transfer protocol (HTTP) HEAD technique

as disclosed in Anderson in order to retrieve whatever information is identified by

the request uniform resource identifier. One of ordinary skill in the art would

have been motivated to incorporate the teachings with one another to establish a

more efficient system be being able to see if something has changed without

downloading the full file therefore conserving bandwidth.

34.   With respect to claims 44 79, 101, and 123, the claims is rejected for the

same reasons as claims 23, 41, 58, 76, 80, 98, 102, and 120 above. In addition,

Anderson discloses wherein providing for uploading a remaining portion of the

content comprises providing for uploading a remaining portion of the content in

accordance with one of a HTTP POST and a HTTP PUT technique, wherein the

one of the HTTP POST and HTTP PUT technique includes providing for

uploading the remaining portion of the content including header information

comprising a bit range of the remaining portion of the content ([0036], lines 9-13,

POST request identifies the resource that will handle the enclosed entity and

PUT request identifies the entity enclosed with the request and must know what

uniform resource identifier is intended and not attempt to apply the request to

some other resource).

Response to Arguments

35.   Applicant's arguments filed 07/01/2009 have been fully considered but

they are not persuasive.

36.   Applicants on page 28-29, applicants request the examiner to provide

explanation in addition to the citations regarding applicant's claims has been

noted. Appropriate explanation has been provided next to the citations the

examiner has provided above. Again, if the applicant's find the explanations

insufficient, the examiner asks the applicant's to schedule an interview with the

examiner so the examiner can explain how the art reads on applicant's claimed

invention.

37.   Applicants on page 29-31 argue that Airy does not disclose claim 1. The

applicant's also disclose what the word "upload" is and alleges that Airy does not

disclose receiving an upload schedule from a recipient, and uploading content to

the recipient in accordance with the upload schedule. The examiner respectfully

disagrees.

Airy in [0010], clearly disclose that the subscriber unit transmits a request

to send data blocks to the base transceiver station (request to upload). The base

transceiver generates a schedule that includes time slots and frequency blocks in

which the requested data blocks are to be transmitted from the one subscriber

unit to the base transceiver station (a schedule from the recipient). The

subscriber unit transmits the data blocks the subscriber earlier requested to sent,

according to the schedule (uploading the content to the recipient in accordance

with the upload schedule). In sense, the subscriber sends a request to send a

file to the recipient, in which the recipient sends back a schedule for the

subscriber so the subscriber can send the files based on the schedule generated

by the recipient.

38.   Applicants also argue on pace 30 that Airy discloses a schedule or map

that divide time and frequency for a time and frequency division multiplexing

scheme. The examiner notes that in [0031], Airy discloses that the scheduling

generally includes maintaining data queues of the data blocks, and assigning

frequency blocks and time slots to each of the subscriber units for receiving or

transmitting data blocks. In [0033], Airy disclose that the invention can be

extended to cover the transmission of data between any type of transmitter ad

receiver in which the transmission can be time division duplex and the

transmission can be frequency division duplex. Also, the examiner notes that

applicant's did not claim specifically what type of schedule the claimed schedule

has to be.

39.   Applicants also argue that wireless transmission between a subscriber

station and a base transceiver station is not the same as uploading content.

According to applicant's definition of upload, it may be interpreted as a transfer

from a local apparatus to another. In this case, a wireless transmission between

a subscriber station and a base transceiver satisfy the condition of an upload by

definition.

40.   Applicants argue on page 32 that Airy and McDonnell do not disclose "the

upload schedule includes instructions dependent upon the state of the recipient,

sender and/or networks over which the content is uploaded. Information

reflecting the current state of recipient, sender and/or network is received before

uploading the content, with uploading the content based on the respective

instruction and information." The examiner respectfully disagrees. A schedule

has already been disclosed by Airy in [0011]. McDonnell clearly discloses that

the upload is dependent on the state of the recipient. In claim 26, applicants

claim that a current state comprises at least one of a connectivity, location, actual

movement or predicted movement of at least one of the recipient or the

apparatus. In col. 6, lines 33-40, McDonnell clearly disclose whether a user of

the mobile device decides whether they wish to receive the data from the

network utilizing a low bandwidth connection (PLMN) or whether the user wishes

to move within range of a high bandwidth connection (WBSR). If the user

chooses to move within range of the high bandwidth connection (WBSR), the

data remains within the network until the user brings the device within range.

McDonnell clearly disclose uploading the content based on the connectivity and

location of the recipient.

41.   Applicants also argue on page 32 that there is no reason to combine Airy

and McDonnell. The examiner respectfully disagrees. Airy discloses sending

data from a subscriber station to a transceiver station. McDonnell discloses a

data transfer system. Both Airy and McDonnell both disclose transferring data.

Airy discloses wirelessly transmitting data between a plurality of subscriber units

and a base transceiver according to a schedule that includes time slots and

frequency blocks. McDonnell also discloses in col. 6, lines 18-23 that the data

resident upon the network can be sent to the mobile device from a network

element. McDonnell in col. 6, lines 28-32, discloses the message comprises a

notification that data is awaiting transfer from the network to the device in which

the message is passed from the station to the first transceiver of the device by

wireless transmission. McDonnell then discloses in col. 6, lines 32-40 that the

receiver then tells the network that they wish to receive the data from the low

bandwidth network, PLMN, or if they wish to receive the data when they are in

range in the high bandwidth network (WBSR) which constitutes a schedule that

the recipient sent to the network in response to a request to send data to the

recipient and in which the network is going to send the data to the recipient

according to the location of the recipient device. Therefore Airy and McDonnell

are both analogous art in which is combinable to one of ordinary skill in the art

since they both disclose transferring data wirelessly.

42.   Applicant's arguments on pages 33-35 are considered moot in view of

arguments stated above.

Conclusion

43.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

44.   Any inquiry concerning this communication or earlier communications from

the examiner should be directed to HO SHIU whose telephone number is

(571)270-3810. The examiner can normally be reached on Mon-Thur (8:30am -

4:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax

phone number for the organization where this application or proceeding is

assigned is 571-273-8300.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

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free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

HTS   /Ho Ting Shiu/
10/29/2009   Examiner, Art Unit 2457

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457